



05.16.02

D A C
#3EXPRESS MAILING CERTIFICATE

EXPRESS MAIL NO.

0493227545

Deposited:

MAY 14, 2002

I hereby certify that this correspondence is being deposited with the United States Postal Service Express mail under 37 CFR 1.10 on the date indicated above and is addressed to: Commissioner for Patents, Arlington, VA 22202.

Handwritten signature of Ruth Montalvo.

Ruth Montalvo

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:

Shlomo Ben-Haim, et al : Art Unit: 3762

Serial No.: 10/039,845 : Examiner: Not yet assigned

Atty Docket No.: 20066.84 :

Title: ELECTRICAL MUSCLE CONTROLLER

BOX OMITTED ITEM(S)Commissioner for Patents
Washington, D.C. 20231*RECEIVED
MAY 21 2002
OFFICE OF PETITIONS*PETITION UNDER 37 C.F.R. §1.182

SIR:

Applicants hereby petition for acceptance that page 30 was deposited in the USPTO with the nonprovisional application papers filed on October 23, 2001.

March 26, 2002 Applicants received a Notice of Omitted Item(s) (copy enclosed) indicating that page 30 of the Specification was missing from the application papers filed. As is set forth in the attached Declaration of William H. Dippert, page 30 was in fact included with the papers forwarded to the USPTO. Therefore, since page 30 was not missing from the application papers filed, the USPTO records should be modified to indicate that page 30 was in fact received with the application papers filed October 23, 2001.

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In addition, please note Box 16 in the transmittal form enclosed with the attached Dippert Declaration. Said box contains an incorporation by reference of the prior, parent application in the event of an omission, or an apparent omission. Therefore, to the extent that it is still considered that page 30 was not filed with the application papers, page 30 should be incorporated by reference.

A check in the amount of the petition fee of \$130 is enclosed. Any other fee deemed due should be charged to Deposit Account No. 50-1529. However, should page 30 be considered to have been received, the petition fee should then be credited to Deposit Account No. 50-1529.

Also, a copy of page 30 is further enclosed. Should the USPTO not deem page 30 to have been deposited on October 23, 2001, it is requested that said be page be deemed to have been deposited as of the filing date of this petition.

Respectfully submitted,



William H. Dippert
Reg. No. 26,723
REED SMITH LLP
375 Park Avenue
New York, New York 10152
(212) 521-5408



UNITED STATES PATENT AND TRADEMARK OFFICE

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COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
www.uspto.gov

APPLICATION NUMBER	FILING RECEIPT DATE	FIRST NAMED APPLICANT	ATTORNEY DOCKET NUMBER
10/039,845	10/23/2001	Shlomo Ben-Haim	20066.84

RECEIVED
MAR 26 2002
Cowan, Liebowitz & Latman, P.C.

CONFIRMATION NO. 1690
FORMALITIES LETTER



OC00000007640391

William H. Dippert
Cowan, Liebowitz & Latman, P.C.
1133 Avenue of the Americas
New York, NY 10036-6799

Date Mailed: 03/14/2002

May 14/2002 L.C.

NOTICE OF OMITTED ITEM(S) IN A NONPROVISIONAL APPLICATION

FILED UNDER 37 CFR 1.53(b)

A filing date has been accorded to the above-identified nonprovisional application papers; however, the following item(s) appear to have been omitted from the application:

- Page(s) 30 of the specification (description and claims).

I. Should applicant contend that the above-noted omitted item(s) was in fact deposited in the U.S. Patent and Trademark Office (USPTO) with the nonprovisional application papers, a copy of this Notice and a petition (and \$130.00 petition fee (37 CFR 1.17(h))) with evidence of such deposit **must** be filed within TWO MONTHS of the date of this Notice. The petition fee will be refunded if it is determined that the item(s) was received by the USPTO.

II. Should applicant desire to supply the omitted item(s) and accept the date that such omitted item(s) was filed in the USPTO as the filing date of the above-identified application, a copy of this Notice, the omitted item(s) (with a supplemental oath or declaration in compliance with 37 CFR 1.63 and 1.64 referring to such items), and a petition under 37 CFR 1.182 (with the \$130.00 petition fee (37 CFR 1.17(h))) requesting the later filing date **must** be filed within TWO MONTHS of the date of this Notice.

III. The failure to file a petition (and petition fee) under the above options (I) or (II) within TWO MONTHS of the date of this Notice (37 CFR 1.181(f)) will be treated as a constructive acceptance by the applicant of the application as deposited in the USPTO. THIS TWO MONTH PERIOD IS NOT EXTENDABLE UNDER 37 CFR 1.136(a) OR (b). In the absence of a timely filed petition in reply to this Notice, the application will maintain a filing date as of the date of deposit of the application papers in the USPTO, and original application papers (i.e., the original disclosure of the invention) will include only those application papers present in the USPTO on the date of deposit.

In the event that applicant elects not to take action pursuant to options (I) or (II) above (thereby constructively electing option (III)), amendment of the specification to renumber the pages consecutively and cancel incomplete sentences caused by any omitted page(s), and/or amendment of the specification to cancel all references to any omitted drawing(s), relabel the drawing figures to be numbered consecutively (if necessary), and correct the references in the specification to the drawing figures to correspond with any relabelled drawing figures, is required. Any drawing changes should be accompanied by a copy of the drawing figures showing the proposed changes in red ink. Such amendment and/or correction to the drawing figures, if necessary, should be by way of preliminary amendment submitted prior to the first Office action to avoid delays in the prosecution of the application.

*A copy of this notice **MUST** be returned with the reply.*



Customer Service Center
Initial Patent Examination Division (703) 308-1202
PART 1 - ATTORNEY/APPLICANT COPY

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE



In re Application of:

Shlomo Ben-Haim, et al : Art Unit: 3762
Serial No.: 10/039,845 : Examiner: Not yet assigned
Atty Docket No.: 20066.84 :
Title: ELECTRICAL MUSCLE CONTROLLER

RECEIVED
MAY 21 2002
OFFICE OF PETITIONS

DECLARATION IN SUPPORT OF PETITION UNDER 37 C.F.R. §1.182

I, William H. Dippert, hereby declare and say:

1. That, I am the attorney of record in the above application and am admitted to practice before the U.S. Patent and Trademark Office, Registration No. 26,723.

2. That, on October 23, 2001, as attorney of record, I filed the above-identified patent application with the U.S. Patent and Trademark Office ("USPTO"). The application papers included the following:

- (1) A return postcard having a mailing date of October 23, 2001 which has subsequently been stamped by the USPTO with the filing date of October 23, 2001;
- (2) A transmittal form listing the contents of the application papers;
- (3) An Express Mail Certificate certifying the deposit date of October 23, 2001;
- (4) Sixty pages of Specification, including claims and an Abstract;
- (5) Twenty-five sheets of drawings; and
- (6) An unsigned declaration.

A copy of item (2) is enclosed.

3. It is my practice when filing any document with the USPTO to personally count the pages being submitted prior to insertion into an envelope addressed to the USPTO, to confirm that all pages are present and, especially, to confirm that the number of pages of the submission conforms to the pages indicated on the transmittal form. Here, the transmittal form indicates that sixty pages of Specification were enclosed. Thus, I personally counted the pages of the above application to confirm that all sixty pages were present. Also, the pages I counted were consistent with the page number set forth on the application transmittal form.

4. It is also my practice to have a copy in my application file of the papers submitted to the USPTO. On October 23, 2001 I placed a copy of the application papers submitted to the USPTO in my file of the above application. Said copy of the application papers contains page 30.

5. Upon receipt of the Notice of Omitted Item(s), I immediately checked my file of the application case. The file contains copies of all pages of the Specification, including the allegedly missing page.

6. I hereby confirm that a complete copy of the above application, including page 30, was forwarded to the USPTO by Express Mail on October 23, 2002.

I further declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further, that these statements were made with the knowledge that the making of willfully false statements and the like is punishable by fine or imprisonment, or both, under Section 1001 of title 18 of the United States Code, and my jeopardize the validity of any patent issuing from the patent application.

William H. Dippert
William H. Dippert

Date: May 14, 2002



Please type a plus sign (+) inside this box →

PTO/SB/05 (4/98)

Approved for use through 09/30/2000. OMB 0651-0032
Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCE

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

UTILITY PATENT APPLICATION TRANSMITTAL

(Only for new nonprovisional applications under 37 C.F.R. § 1.53(b))

Attorney Docket No.	20066.84
First Inventor or Application Identifier	Shlomo BEN-HAIM
Title	ELECTRICAL MUSCLE CONTROLLER
Express Mail Label No.	EL432143236US

APPLICATION ELEMENTS

See MPEP chapter 600 concerning utility patent application contents.

1. * Fee Transmittal Form (e.g., PTO/SB/17)
(Submit an original and a duplicate for fee processing)
2. Specification [Total Pages 60]
(preferred arrangement set forth below)
 - Descriptive title of the Invention
 - Cross References to Related Applications
 - Statement Regarding Fed sponsored R & D
 - Reference to Microfiche Appendix
 - Background of the Invention
 - Brief Summary of the Invention
 - Brief Description of the Drawings (if filed)
 - Detailed Description
 - Claim(s)
 - Abstract of the Disclosure
3. Drawing(s) (35 U.S.C. 113) [Total Sheets 25]
4. Oath or Declaration [Total Pages 6]
 - a. Newly executed (original or copy)
 - b. Copy from a prior application (37 C.F.R. § 1.63(d))
(for continuation/divisional with Box 16 completed)
 - i. DELETION OF INVENTOR(S)
Signed statement attached deleting inventor(s) named in the prior application, see 37 C.F.R. §§ 1.63(d)(2) and 1.33(b).

*NOTE FOR ITEMS 1 & 13: IN ORDER TO BE ENTITLED TO PAY SMALL ENTITY FEES, A SMALL ENTITY STATEMENT IS REQUIRED (37 C.F.R. § 1.27), EXCEPT IF ONE FILED IN A PRIOR APPLICATION IS RELIED UPON (37 C.F.R. § 1.28).

ADDRESS TO: Assistant Commissioner for Patents
Box Patent Application
Washington, DC 20231

5. Microfiche Computer Program (Appendix)
6. Nucleotide and/or Amino Acid Sequence Submission
(if applicable, all necessary)
 - a. Computer Readable Copy
 - b. Paper Copy (identical to computer copy)
 - c. Statement verifying identity of above copies

ACCOMPANYING APPLICATION PARTS

7. Assignment Papers (cover sheet & document(s))
8. 37 C.F.R. § 3.73(b) Statement Power of (when there is an assignee) Attorney
9. English Translation Document (if applicable)
10. Information Disclosure Statement (IDS)/PTO-1449 Copies of IDS Citations w/copy of priority application
11. Preliminary Amendment Filing Receipt
12. Return Receipt Postcard (MPEP 503)
(Should be specifically itemized)
13. Small Entity Statement(s) Statement filed in prior application, (PTO/SB/09-12) Status still proper and desired
14. Certified Copy of Priority Document(s)
(if foreign priority is claimed)
15. Other: Copy of Int'l Preliminary Examination Report.....
from PCT/IL97/00012.....

16. If a CONTINUING APPLICATION, check appropriate box, and supply the requisite information below and in a preliminary amendment:

Continuation Divisional Continuation-in-part (CIP)

of prior application No: 09 / 563,544

Prior application information: Examiner C.H. Layno

Group / Art Unit: 3762

For CONTINUATION or DIVISIONAL APPS only: The entire disclosure of the prior application, from which an oath or declaration is supplied under Box 4b, is considered a part of the disclosure of the accompanying continuation or divisional application and is hereby incorporated by reference. The incorporation can only be relied upon when a portion has been inadvertently omitted from the submitted application parts.

17. CORRESPONDENCE ADDRESS

<input type="checkbox"/> Customer Number or Bar Code Label	(Insert Customer No. or Attach bar code label here)				<input checked="" type="checkbox"/> Correspondence address below
Name	William H. Dipert				RECEIVED
	Cowan, Liebowitz & Latman, P.C.				MAY 21 2001
Address	1133 Avenue of the Americas				OFFICE OF PETITIONS
City	New York	State	NY	Zip Code	10036-6799
Country	USA	Telephone	(212) 790-9200	Fax	(212) 575-0671

Name (Print/Type) William H. Dipert Registration No. (Attorney/Agent) 26,723

Signature  Date October 23, 2001

Burden Hour Statement: This form is estimated to take 0.2 hours to complete. Time will vary depending upon the needs of the individual case. Any comments on the amount of time you are required to complete this form should be sent to the Chief Information Officer, Patent and Trademark Office, Washington, DC 20231. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Assistant Commissioner for Patents, Box Patent Application, Washington, DC 20231.

EL432143236US